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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/588,716

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EXAMINER

BOMBERG, KENNETH

ART UNIT

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3754

MAIL DATE

DELIVERY MODE

07/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,716	Applicant(s) LE MANER ET AL.	
	Examiner KENNETH BOMBERG	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. Applicants' amendment filed 27 May 2009 incorporating section headings has overcome the objection to the specification.

2. Applicants' amendment filed 27 May 2009 to claims 5 and 6 amending "ring" to "fastener ring" has overcome the objection to these claims.

Claim Rejections - 35 USC § 112

3. Applicants' amendment filed 27 May 2009 to claims 1 and 7 deleting the phrase "such as" overcomes the previous rejections under 35 U.S.C. 112, second paragraph.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The "at least one elastically deformable lip" has confusing antecedent basis in claim 1 with the claimed "two deformable lips"

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

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basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-8, and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US

Patent No. 3,248,021 to Corsette et al. (Corsette).

Corsette teaches:

In Reference to Claims 1, 7 and 14

In Figs. 1, 4 and col. 2, lines 43-64, Corsette teaches of a fastener ring (14) connecting a dispenser member (dispenser (pump)) to a neck (26) of a receptacle (container) containing a fluid (liquid), the fastener ring having a deformable sealing means / member (V-shaped groove 75) cooperating with the neck in a leak-tight manner (col. 2, line 64), the sealing means comprising two deformable lips (outer and inner walls defining groove 75), said neck (26) has an axially projecting portion (annular lip of the container neck; col. 2, lines 43-37) cooperating with the two deformable lips of the fastening ring sealing means (75). In Fig. 1, the lip of the container neck can be seen having a rounded edge profile cooperating with the outer and inner walls defining the sealing means / member (groove 75) forming a leak-tight contact zone sloping at least in part.

In Reference to Claims 2, 3, 4, 8, and 11

The lips (outer and inner walls defining groove 75) are: elastically deformable (flex; col. 2, lines 53 and 63), made integrally with the fastening ring (cast integrally; col. 2, lines 40-41), injection molded with the fastening ring (injection molding operation;

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col. 2 lines 42-43), fasten the dispenser in a leak tight manner to the receptacle(effect a seal; col. 2, lines 44-47), and compensates for dimensional variations in the neck of the receptacle (col. 2, lines 59-64).

In Reference to Claim 5

A snap fastener means (protuberance 22) includes a contact surface that cooperates with a shoulder surface (annular rib 25) (col. 2, lines 29-33).

In Reference to Claim 6

The fastener ring (14) is made integrally with a turret (skirt 85) and with a ferrule (annular lip 92) defining a rest position of the dispenser member (35).

In Reference to Claim 10

The neck (26) has an axially projecting portion (lip of the container neck; col. 2, lines 43-37) cooperating with the sealing means (75). In Fig. 1, the lip can be seen having a rounded edge profile cooperating with the outer and inner walls defining the sealing means (groove 75) forming a leak-tight contact zone sloping at least in part.

In Reference to Claims 12-13

The dispensing member is a pump (col. 3, lines 18-24).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Corsette in view of US Patent No. 3,428,208 to Kosar (Kosar).

Corsette teaches a fluid dispenser device according to claim 14 (see rejection of claim 14 above), but does not teach wherein the axially-projecting portion is an annular portion axially extending from a flat horizontal annular rim portion of the neck. In Fig. 13 and col. 3, lines 40-44, Kosar teaches an axially-projecting portion is an annular portion axially extending from a flat horizontal annular rim portion of the neck (bead or convex end of upright wall 1e).

It would have been obvious to one having ordinary skill in the art at the time of the invention to have substituted the annular portion axially extending from a flat horizontal annular rim portion of the neck (as taught by Kosar in Fig. 13) for the axially projecting portion (annular lip of the container neck) of Corsette, since Kosar teaches that the claimed arrangement is known alternative closure seal.

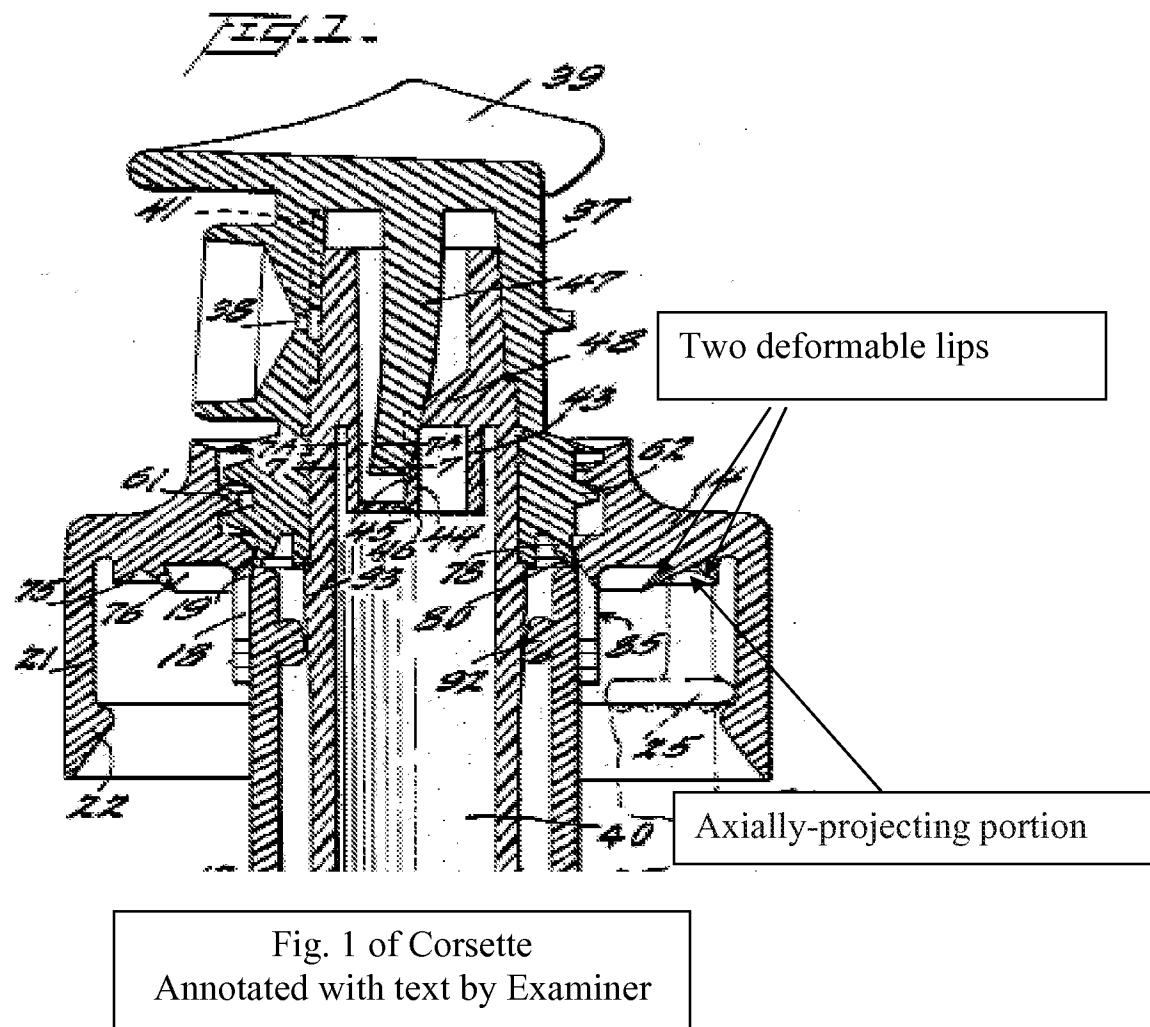
Response to Arguments

10. Applicant's arguments filed 27 May 2009 have been fully considered but they are not persuasive. Applicant's argue:

Corsette clearly does not disclose any axially projecting portion. Further, even if, arguendo, one were to consider the upper annular rib 25 of the neck as being an axial projection, it is not positioned between the two deformable lips of the sealing means. The argument is a mischaracterization of the rejection. As discussed in the previous rejection and repeated above as they apply to the current claims, the axially projecting portion is the

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rounded annular lip of the container neck discussed in Corsette in col. 2, lines 43-37 and not the annular rib 25 argued by Applicants (see Corsette Fig. 1 reproduced below with Examiner textual annotation). It is further noted that the argument as it applies to claims 1-6 and 12 is irrelevant as those claims are directed to the subcombination of the fastener ring and not the combination of the fastener ring with the receptacle.



Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection (of the newly presented claims) presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to KENNETH BOMBERG whose telephone number is (571)272-4922. The examiner can normally be reached on Monday-Thursday and alternative Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571)272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KB

/Kenneth Bomberg/
Primary Examiner, Art Unit 3754